

**Summary:** The defendant filed a motion for injunctive relief requesting that he be required to be present when his documents were photocopied, that he be transferred to another institution, and that prison staff be prevented from opening his mail. The Court denied the defendant's motion finding that the defendant did not meet his burden and had not established that the imposition of an injunction was warranted.

**Case Name:** Wheeler v. Schuetzle, et al.

**Case Number:** 1-07-cv-75

**Docket Number:** 22

**Date Filed:** 2/07/08

**Nature of Suit:** 550

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

LeRoy K. Wheeler,	)	
	)	
Plaintiff,	)	<b>ORDER DENYING MOTION FOR</b>
	)	<b>INJUNCTIVE RELIEF</b>
vs.	)	
	)	
State of North Dakota, et. al.,	)	Case No. 1:07-cv-075
	)	
Defendants.	)	

---

On January 30, 2008, the plaintiff, LeRoy K. Wheeler ( Wheeler), filed an ex parte "Request for Injunctive Order." For the reasons set forth below, the motion is denied.

**I. BACKGROUND**

The plaintiff, LeRoy K. Wheeler, is an inmate at the North Dakota State Penitentiary ("NDSP"), who initiated this civil rights action on October 26, 2007. His complaint alleges that: (1) NDSP officials have censored legal mail and distributed confidential information to other inmates; and (2) Derek Stanton, a federal inmate housed at the NDSP, has been afforded preferential

treatment by staff.

Wheeler filed a request for injunctive relief on January 30, 2008. He seeks a court order requiring that he be present when his documents are photocopied, that his transfer to another institution be prohibited, and that NDSP staff be prevented from opening his legal mail.

According to Wheeler, the NDSP's photocopying policy requires that inmates place documents they want photocopied into an unsealed envelope which is sent via "institutional mail" to administrative services. Wheeler believes that the documents he wants photocopied will be lost or destroyed if routed through "institutional mail." Notably, there is nothing in Wheeler's submissions to suggest there has been any such incident to date. Wheeler merely notes that the Burleigh County States Attorney has yet to respond to his correspondence dated January 14, 2008. And from this silence Wheeler has extrapolated an intent by NDSP officials to sabotage his ability to prosecute his claims at bar or pursue criminal charges against those who have done him wrong.

It is in this vein that Wheeler also contends that NDSP officials are intent on transferring him to another institution in retaliation for exercising his constitutional rights. For support, he references conversations amongst staff that he by chance overheard.

## **II. LEGAL DISCUSSION**

"[W]hether a preliminary injunction should issue involves consideration of (1) the threat of irreparable harm to the movant; (2) the state of balance between this harm and the injury that granting the injunction will inflict upon other parties litigant; (3) the probability that [the] movant will succeed on the merits; and (4) the public interest." Goff v. Harper, 60 F.3d 518, 520 (8th Cir. 1995) (quoting Dataphase Systems, Inc. v. C.L. Sys, Inc., 640 F.2d 108, 114 (8th Cir. 1981) (en

banc)); see also Baker Electric Co-op, Inc. v. Chaske, 28 F.3d 1466, 1472 (8th Cir. 1994) (explaining that no single factor is dispositive and that all must be given consideration).

It is well-established that the burden of establishing the necessity of an injunction is on the movant. See Baker Electric Co-op, Inc. v. Chaske, 28 F.3d at 1472; see also Brookings v. Wisconsin Promoters Assoc., Inc., 142 F.Supp. 2d 1149, 1151 (D.N.D. 2000). "Moreover, in the prison context, a request for injunctive relief must always be viewed with great caution because judicial restraint is especially called for in dealing with the complex and intractable problems of prison administration." Goff v. Harper, 60 F.3d at 520 (internal quotations omitted); see also Bacon v. Taylor, 419 F. Supp. 2d 635, 638 (Del. 1996) (providing that when a request for injunctive relief entails court interference with a state prison's administration, the court must consider the principles of federalism in determining the availability and scope of equitable relief).

Having carefully considered and weighed the factors enumerated above, the Court finds that Wheeler has not met his burden and established that the imposition of an injunction is warranted. First, there is nothing in Wheeler's submissions to suggest that he has been prejudiced in any irreparable way. Despite the vague, conclusory allegations regarding the possibility of future prejudice, the fact remains that Wheeler has not been deprived of access to or the use of photocopying services and his status at the NDSP remains unchanged.

Second, because the relief sought by Wheeler goes directly to the manner in which the penitentiary operates, the request for an injunction or a protective order must be viewed with caution and judicial restraint. Prison administrators must "be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." Bell v. Wolfish, 441 U.S. 520,

547 (1979). Whether NDSP policy permits an inmate to make his own photocopies or otherwise oversee his photocopying requests is unclear. Wheeler has failed to demonstrate that the relief he seeks with respect to photocopying outweighs the defendants' interest in the maintenance of security and warrants the Court's involvement in what are essentially administrative functions.

Third, the granting of injunctive relief in this case would not serve the public interest. The public has a strong interest in the safe, efficient, and orderly operation of its prison system. See e.g., Meachum v. Fano, 427 U.S. 215, 229 (1976). This interest would not be served if this Court were to give little deference to penitentiary officials and micro-manage every picayune dispute that arises within the institution.

Fourth, having reviewed Wheeler's claims, the Court concludes that he has not demonstrated a likelihood of success on the merits as the allegations are vague, and conclusory.

### **III. CONCLUSION**

Wheeler's Request for Injunctive Relief (Docket No. 18) is **DENIED**.

**IT IS SO ORDERED.**

Dated this 7th day of February, 2008.

/s/ Daniel L. Hovland  
Daniel L. Hovland, Chief Judge  
United States District Court